

2024 IL App (4th) 241131

NO. 4-24-1131

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

November 21, 2024  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Boone County
CHRISTOPHER G. TOLLIVER,	)	No. 18CF1
Defendant-Appellant.	)	
	)	Honorable
	)	Ryan A. Swift,
	)	Judge Presiding.

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JUSTICE DOHERTY delivered the judgment of the court, with opinion. Presiding Justice Cavanagh and Justice Steigmann concurred in the judgment and opinion.

**OPINION**

¶ 1 Defendant Christopher G. Tolliver appeals the trial court’s order revoking his pretrial release under article 110 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/art. 110 (West 2022)), which was amended by Public Act 101-652 (eff. Jan. 1, 2023), commonly known as the Pretrial Fairness Act (Act). See *Rowe v. Raoul*, 2023 IL 129248, ¶ 52 (lifting the stay of the Act’s pretrial release provisions and setting their effective date as September 18, 2023). Defendant argues that the order must be reversed because the court failed to hold a revocation hearing in Boone County within 72 hours of his arrest in Cook County or his subsequent arrival in Boone County. We disagree and affirm.

¶ 2 I. BACKGROUND

¶ 3 Because the issue in this appeal is exceedingly narrow, we address only the facts pertinent to that issue.

¶ 4 In Boone County case No. 18-CF-1, defendant is facing four criminal charges, including one count of being an armed habitual criminal (720 ILCS 5/24-1.7 (West 2018)). See *People v. Tolliver*, 2022 IL App (2d) 210080, ¶¶ 1, 45 (reversing defendant’s prior convictions on these charges and remanding for retrial). On December 12, 2022, defendant was released pending retrial on these charges by posting a \$10,000 bond deposit on his then-existing bond of \$100,000. After the Act took effect, defendant was “allowed to remain on pretrial release under the terms of [his] original bail bond,” but the State retained the “ability to file \*\*\* a petition for revocation \*\*\* under Section 110-6.” 725 ILCS 5/110-7.5(a) (West 2022). This appeal involves such a petition.

¶ 5 The record reflects the following timeline of events, all occurring in 2024:

March 1 Defendant allegedly commits several felonies in Cook County.

April 1 A Cook County grand jury issues a multiple-count indictment against defendant.

April 16 The Boone County State’s Attorney’s Office files a petition to revoke defendant’s pretrial release based on the Cook County indictment. See 725 ILCS 5/110-10(a)(4) (West 2022) (providing that a condition of any bail bond is that the defendant “[n]ot violate any criminal statute of any jurisdiction”). Based on the petition, a Boone County judge issues a warrant for defendant’s arrest under section 107-9 of the Code (*id.* § 107-9). See *id.* § 110-3(a) (allowing for an arrest warrant to issue based on an alleged failure to comply with a condition of pretrial release).

April 24 Defendant is arrested in Cook County and taken into custody.

April 26 The Boone County State's Attorney's Office is officially notified of defendant's arrest by the Cook County State's Attorney's Office.

April 29 The Boone County Sheriff's Office picks defendant up from Cook County and takes him into custody. A return of service on the arrest warrant is filed in Boone County case No. 18-CF-1 showing that defendant was arrested on April 29, 2024. A revocation hearing is tentatively scheduled for May 1. However, defendant's retained attorneys contact the Boone County State's Attorney's Office and say that they "will be on trial for the rest of this week and \*\*\* were wondering if [they] could set the PFA for Friday 5/3."

May 1 After further e-mail correspondence with the Cook County State's Attorney's Office and defendant's attorneys, the trial court schedules the revocation hearing for May 3.

May 2 Defendant's attorneys file a petition seeking new, nonmonetary conditions of release under the Code.

May 3 The revocation hearing is held, and the trial court revokes defendant's pretrial release.

¶ 6 At three subsequent appearances, the trial court found that continued detention was necessary. See *id.* § 110-6(j). Defendant filed a motion for relief pursuant to Illinois Supreme Court Rule 604(h)(2) (eff. Apr. 15, 2024), which the court denied.

¶ 7 This appeal followed.

¶ 8 II. ANALYSIS

¶ 9 A. Transportation Between Counties

¶ 10           When it passed the Act, the legislature was well aware that defendants might be arrested in one county on a warrant issued from another county; therefore, it amended section 109-2 of the Code to provide as follows:

“(d) After the court in the arresting county has determined whether the person shall be released or detained on the arresting offense, the court shall then order the sheriff to immediately contact the sheriff in any county where any warrant is outstanding and notify them of the arrest of the individual.

(e) If a person has a warrant in another county for an offense, then, no later than 5 calendar days after the end of any detention issued on the charge in the arresting county, the county where the warrant is outstanding shall do one of the following:

(1) transport the person to the county where the warrant was issued for a hearing under Section 110-6 or 110-6.1 in the matter for which the warrant was issued; or

(2) quash the warrant and order the person released on the case for which the warrant was issued only when the county that issued the warrant fails to transport the defendant in the timeline as proscribed.

(f) If the issuing county fails to take any action under subsection (e) within 5 calendar days, the defendant shall be released from custody on the warrant, and the circuit judge or associate circuit judge in the county of arrest shall set conditions of release under Section 110-5 and shall admit the defendant to pretrial release for his or her appearance before the court named in the warrant.” 725 ILCS 5/109-2 (West 2022).

¶ 11 Here, it is clear that, within the five calendar days allowed by section 109-2(e)(2), defendant was transported to Boone County for a hearing under section 110-6, so a release from custody under section 109-2(f) would have been improper.

¶ 12 B. Starting the 72-Hour Clock

¶ 13 Under section 110-6(a), “pretrial release may be revoked only if the defendant is charged with a felony or Class A misdemeanor that is alleged to have occurred during the defendant’s pretrial release after a hearing on the court’s own motion or upon the filing of a verified petition by the State.” *Id.* § 110-6(a).

“Upon the filing of a petition or upon motion of the court seeking revocation, the court shall order the transfer of the defendant and the petition or motion to the court before which the previous felony or Class A misdemeanor is pending. The defendant may be held in custody pending transfer to and a hearing before such court. The defendant shall be transferred to the court before which the previous matter is pending without unnecessary delay, and the revocation hearing shall occur within 72 hours of the filing of the State’s petition or the court’s motion for revocation.” *Id.*

¶ 14 Defendant’s argument revolves around the proper interpretation of this section. As the supreme court recently explained when interpreting the Act:

“Statutory interpretation presents a question of law, subject to *de novo* review. [Citation.] The primary objective when construing a statute is to ascertain the intent of the legislature and give effect to that intent. [Citation.] The best means of accomplishing this objective is through the statutory language itself, given its plain and ordinary meaning. [Citation.] When interpreting a statute, a court must

‘view all provisions of an enactment as a whole,’ taking care not to isolate words and phrases but reading them ‘in light of other relevant provisions of the statute.’ ” *People v. Clark*, 2024 IL 130364, ¶ 15 (quoting *Michigan Avenue National Bank v. County of Cook*, 191 Ill. 2d 493, 504 (2000)).

¶ 15 Strictly speaking, the State’s verified petition to revoke defendant’s pretrial release was “filed” on April 16, 2024. The same day, the trial court issued a warrant for defendant’s arrest. Defendant was ultimately not arrested on that warrant until April 24, or eight days after the filing of the petition to revoke. If we agreed with defendant’s position on appeal, it would mean that the trial court should have proceeded to hear the State’s petition *in absentia*, with defendant being given no opportunity to participate in the hearing. This seems to contradict the goals of the statute, as reflected in other provisions. See 725 ILCS 5/110-6(a) (West 2022) (stating that, at the revocation hearing, the defendant shall “have an opportunity to be heard regarding the violation and evidence in mitigation”); *id.* § 110-6(c) (setting forth measures “to ensure the defendant’s appearance in court” and referencing the warrant provisions of section 110-3).

¶ 16 Although it dealt with different provisions of the statute, we believe that the supreme court’s decision in *Clark* gives some guidance on how to resolve the conflict described above. The defendant in *Clark* had been charged before the effective date of the new statutory scheme for pretrial detention, and the State obtained an arrest warrant in an *ex parte* appearance before the court. *Clark*, 2024 IL 130364, ¶ 5. After being arrested on the warrant, the defendant made his first appearance before a judge *after* the effective date of the new statutory detention scheme. The State filed a petition to detain the defendant at the time of the hearing, which the trial court granted. *Id.* ¶ 6. On appeal, the defendant argued that his “first appearance” for purposes of the deadline for filing a petition to detain (725 ILCS 110-6.1(c)(1) (West 2022)) was the State’s

appearance at the *ex parte* hearing to request a warrant. *Clark*, 2024 IL 130364, ¶ 8. The supreme court disagreed, noting that such a construction “would lead to the absurd result of allowing *ex parte* detention hearings.” *Id.* ¶ 26. Such a hearing, the court held, “denies defendant the benefit of counsel and a meaningful opportunity to challenge the State’s petition.” *Id.*

¶ 17 We believe that the same logic applies here. The clear legislative purpose of providing defendant with a meaningful hearing on a petition to revoke pretrial release would be materially frustrated if the 72-hour requirement were read to require a hearing before defendant was brought back to the prosecuting jurisdiction. Section 109-2(e)(2) of the Code expressly allowed the Boone County Sheriff’s Office five calendar days to transport defendant from Cook County for a hearing under section 110-6. Even if we were to hold, as defendant urges, that the 72-hour clock began to run with defendant’s arrest in Cook County, such an interpretation would effectively reduce those five calendar days to three. Furthermore, the state’s attorney does not have supervisory authority over the sheriff and should not be penalized if the sheriff fails to complete the transfer in 72 hours despite the state’s attorney’s attempts to diligently advance the process.

¶ 18 To avoid this problem, we conclude that, after the State files its petition, the time for holding a revocation hearing does not begin to run until the sheriff has completed the transfer, which must be done within the maximum of five calendar days under the statute. This is effectively the reading of the statute adopted here by the trial court, and we see the wisdom in this approach. It harmonizes section 109-2(e)(2) with section 110-6(a), which provides that “[t]he defendant shall be transferred to the court before which the previous matter is pending without unnecessary delay, *and* the revocation hearing shall occur within 72 hours of the filing of the State’s petition.” (Emphasis added.) *Id.* § 110-6(a). Furthermore, section 109-2(f) prescribes a specific consequence for the sheriff’s failure to transport the defendant for a hearing under either section 110-6 *or* 110-

6.1, which establishes even shorter deadlines. See *id.* § 110-6.1(c)(2) (providing for a detention hearing within 24 to 48 hours). It is reasonable that any consequences flowing from the court’s failure to hold a timely hearing under section 110-6 should appear in section 110-6.

¶ 19 Accordingly, the trial court properly treated the State’s petition as filed on April 29, at which point the 72-hour clock started.

¶ 20 C. Invited Error

¶ 21 Defendant points out that, even if the petition was filed on April 29, the trial court held the revocation hearing on May 3, well beyond 72 hours. According to defendant, the court’s failure to hold the hearing within 72 hours means that the revocation of his pretrial release is invalid and he must be released on conditions. This court has previously rejected defendant’s argument, as the trial court recognized. See *People v. Green*, 2024 IL App (1st) 240211, ¶ 17; but see *People v. Cooper*, 2024 IL App (4th) 240589-U, ¶¶ 17-20 (reaching a contrary conclusion under section 110-6.1), *appeal allowed*, No. 130946 (Ill. Sept. 16, 2024). The trial court was entitled—indeed, expected—to rely on *Green*’s interpretation of section 110-6(a) as binding precedent. See *Schramer v. Tiger Athletic Ass’n of Aurora*, 351 Ill. App. 3d 1016, 1020 (2004) (“Under the Illinois rule of *stare decisis*, a circuit court must follow the precedent of the appellate court of its district, if such precedent exists; if no such precedent exists, the circuit court must follow the precedent of other districts.”).

¶ 22 On appeal, defendant argues that *Green* was wrongly decided, citing *Cooper* as persuasive authority. See *id.* (“The question before us, therefore, is not whether [another district’s precedent] was binding in the trial court, but whether it was correctly decided.”); see also Ill. S. Ct. R. 23(e)(1) (eff. Feb. 1, 2023) (noting that nonprecedential orders may be cited for persuasive purposes).



¶ 23            However, we decline to resolve this question because defendant’s retained attorneys explicitly invited the trial court to set the hearing for May 3, even though the court was prepared to hold a timely hearing on May 1. Even assuming the court’s decision was error, it was error invited by defendant through his attorneys. See *People v. Edwards*, 2024 IL App (2d) 240155-U, ¶ 30 (citing *People v. Liekis*, 2012 IL App (2d) 100774, ¶ 24).

¶ 24

### III. CONCLUSION

¶ 25            For the reasons stated, we affirm the trial court’s judgment.

¶ 26            Affirmed.

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*People v. Tolliver, 2024 IL App (4th) 241131*

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**Decision Under Review:** Appeal from the Circuit Court of Boone County, No. 18-CF-1; the Hon. Ryan A. Swift, Judge, presiding.

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**Attorneys  
for  
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**Attorneys  
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